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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,001	10/12/2000	Jeffery D. Arnett	30488-1016	7673

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/689,001

Applicant(s)

ARNETT ET AL.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10, 12, 26 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9, 12, 26, 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 1-5, 11, 13-25, 27 and 28 have been canceled. Claims 6-10, 12, 26 and 29-31 are pending.

Applicant's election of the specie of Group I (Fig. 6-9) and claims 6-9, 12, 26, 29 and 30 in the reply filed on January 18, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 10 stands withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 18, 2005.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9, 12, 26 and 29-31 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seitz.

Seitz discloses a latch system for a container, the container including a first section and a second section, the latch comprises a latch pin (rod 21) mounted on the first section (cover 12), a deflectable member (one or both of the bushings 23) and a latch (L member 14) pivotally coupled to the latch pin so that the deflectable member is positioned between the latch pin and the latch, the latch removably engages the second section (receptacle 11), the deflectable member is configured to absorb relative compression movement or movement of the lid downwardly which will move the latch pin downwardly with respect to the receptacle 11 which

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remains relatively stationary such as when the horizontal leg 15 of the latch is depressed or pushed downwardly on in order to release the engagement of complementary projections 26 and 28.

Re claims 6, 26, 29 and 31, deflectable member (bushing 23) is comprised of plastic material as stated in line 41 of column 3. The plastic material absorbs relative compression movement.

Re claims 6, 26 and 29-31, Seitz discloses the plastic bushing material. Seitz discloses the invention except for the rubber and metal material. The Official notice taken in the Office action mailed October 21, 2005 has not been seasonally challenged. Therefore, plastic, rubber and metal as well known materials for bushings is now treated as an applicant admission of prior art. Also, there is a lack of criticality to the material specified as evidenced by applicant's disclosure of plastic, rubber and metal as acceptable materials. It would have been obvious to provide either plastic, rubber or metal as the material of the bushing in order to provide a material with the specific quality or qualities desired, plastic and rubber are known for easy moldability, self-lubricating, anti-friction, noise-reduction, maintenance reduction and strength in absorbing compression and metal is known for high yield strength, durability and strength in absorbing compression.

Claims 6-9, 12, 26 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henne, Munoz or Kushman et al. (Kushman).

Henne and Munoz are similar oven door latches. Henne discloses a latch system for a container, the container including a first section and a second section, the latch comprises a latch pin (30) mounted on the first section (body of the oven), a deflectable member (bushing 66) and

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a latch (20) pivotally coupled to the latch pin so that the deflectable member is positioned between the latch pin and the latch, the latch removably engages the second section (oven door 34), the deflectable member is configured to absorb relative compression movement or movement of the lid toward the oven body which will move the latch (20) with respect to the oven body and the pin 30 which are relatively stationary. Munoz structure is similar and would similarly read on the claims.

Kushman discloses a latch system for a container, the container including a first section and a second section, the latch comprises a latch pin (axle 39) mounted on the first section (storage bin or vessel body), a deflectable member (bushing 41) and a latch (34) pivotally coupled to the latch pin so that the deflectable member is positioned between the latch pin and the latch, the latch removably engages the second section (roof 25), the deflectable member is configured to absorb relative compression movement or movement of the roof downwardly which will move the latch downwardly with respect to the vessel body and the latch pin (axle 39).

Re claims 6, 26 and 29-31, Henne, Munoz and Kushman do not teach a material for the bushing. The Official notice taken in the Office action mailed October 21, 2005 has not been seasonally challenged. Therefore, plastic, rubber and metal as well known materials for bushings is now treated as an applicant admission of prior art. Also, there is a lack of criticality to the material specified as evidenced by applicant's disclosure of plastic, rubber and metal as acceptable materials. It would have been obvious to provide either plastic, rubber or metal as the material of the bushing in order to provide a material with the specific quality or qualities desired, plastic and rubber are known for easy moldability, self-lubricating, anti-friction, noise-

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reduction, maintenance reduction and strength in absorbing compression and metal is known for high yield strength, durability and strength in absorbing compression.

Re the rejection involving Seitz, the rejection has been changed to no longer include Dangel and is considered a new grounds of rejection.

Re the Henne, Munoz and Kushman rejections, applicant's arguments filed September 27, 2006 have been fully considered but they are not persuasive. Applicant's remarks that the bushings disclosed in each of Henne, Munoz and Kushman merely function to retain another component in a pre-determined position and are incapable of absorbing any relative movement are not well taken (see page 6, lines 12-14 of applicant's remarks). The references disclose a bushing of substantially similar structure, a cylindrical sleeve, and of the same material, metal, rubber or plastic. The art discloses the same structure and materials as disclosed in the present invention and the art functions in a similar manner to absorb relative compression movement between the first and second section and between the latch and the latch pin.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535.

The examiner can normally be reached on IFP (increased flextime program).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc